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# PROVIDER BULLETIN

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## THIS ISSUE

### HIPAA\* Impacts on Labor & Industries

(\*Health Insurance  
Portability and  
Accountability Act)

#### TO:

All Providers

*Please route to:*

Privacy Officers

Clinic Managers

HIPAA Coordinators

Business Offices

Billing & Accounts Receivable

Medical Records

Self-Insured Employers

#### CONTACT:

**Pat Harris**

Project Manager for Technology

360-902-5384

hpat235@lni.wa.gov

**Simone Stilson**

Project Manager for Business &

Policy

360-902-6319

stil235@lni.wa.gov

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## Purpose

The purpose of this bulletin is to provide information and guidance to health care providers and self-insured employers regarding impacts that the Health Insurance Portability and Accountability Act (HIPAA) will have on Labor & Industries' programs. This bulletin provides you with information on anticipated changes to electronic billing transaction procedures, security measures, and department privacy policies. It also contains resource information to help ensure the department continues a smooth and disruption-free business relationship with you. This bulletin does NOT provide legal advice or guidance about HIPAA's impacts on your business or practice.

## Background

Congress passed the Health Insurance Portability and Accountability Act in 1996. It has widespread impacts on health care providers, health insurance plans, health care clearinghouses, as well as patients, employers, and government agencies. The goals of the Act are several, but in particular, it sets new industry standards for electronic billing transactions, security and privacy protocols. The federal Department of Health and Human Services (HHS) has issued rules dictating how HIPAA will be implemented and enforced:

- The "Transaction Rule" standardizes procedure code sets and the layout of electronic health care transactions (for example, electronic bills).
- The "Privacy Rule" describes legal requirements for safeguarding the privacy of individuals' confidential health care information.
- A "Security Rule" has been proposed and is expected to be finalized later in the year. It sets standards for the secure electronic transmission of personally identifiable health care information.

Although HHS's rule making is not complete, we know the current scope and impact of HIPAA on our billing processes, procedure code sets, security systems, and privacy policies, and we are making the necessary accommodations. Further, the State of Washington Information Services Board (ISB) has already established security requirements similar to those proposed under HIPAA, so we are making some security changes now. The department is following HIPAA developments closely and will continue to keep you informed of any future impacts they may have on your business with us.

## Workers' Compensation Exemption

Workers' Compensation programs are legally exempt from HIPAA requirements. Regardless of this exemption, the department has chosen to adopt the new transaction and security standards, and will implement many of the privacy standards in order to be as consistent as possible with other payers and the provider community.

## Definitions and Resources

The Privacy Rule defines key terms that describe what information is subject to HIPAA. Throughout this bulletin you will find highlighted references to selected definitions, which are at the end of this bulletin in the section titled, "[Selected HIPAA Definitions](#)." A quick read of these may help you better understand this bulletin. Also, please refer to the section on [Resource Information](#) near the end of this bulletin for tips on where to find more detailed information about HIPAA.

## Transaction and Billing Issues

While workers' compensation is exempt from HIPAA transaction requirements, the department understands healthcare providers will be obligated to comply. In order to accommodate our varied provider community, the department will accept both HIPAA and non-HIPAA electronic transactions. In addition we will continue to accept bills on paper.

### **Will HIPAA change the way I submit bills to the department?**

Yes, if you submit bills electronically. We are developing a website that will provide a new way for providers to send and receive their electronic billing transmissions. When development is complete, we will make a prototype available to providers for testing. The following changes describe how providers will be affected:

- If you currently submit bills in batches via electronic upload, you will be required to use this web-based portal to submit them in either the format you currently use, or in HIPAA-compliant format. The department is replacing the Wildcat BBS with the website as a more secure and HIPAA compliant mode of submitting billing transactions and receiving an electronic remittance advice.
- If your medical billing software allows automatic upload of bills, the new L&I system will accept and process them. More information will be published soon about the transition process.
- The department is currently exploring the use of new electronic forms for submitting standard bill forms over the website. More information will be available soon.

Providers who currently submit paper bills using standard forms may continue to do so. Also, the department will continue to accept billing transactions through the MIPS Direct Entry and the Pharmacy Point of Sale system.

### **Why is the department developing a website for transactions?**

A website will allow us to:

- Ensure secure transmission of all electronic billing and remittance advices
- Immediately acknowledge receipt of HIPAA file transactions
- Display the status of pending bills that are submitted as HIPAA transactions
- Give you the option to retrieve electronic remittance advices from the web
- Offer links to other L&I information
- Continue customer support for electronic transmission errors
- Make our electronic bill processing consistent with the HIPAA standards for providers and clearinghouses
- Process electronic bills submitted in the current formats more efficiently

**What electronic transactions will L&I accept?**

We will continue to accept both the current electronic billing formats as well as the new HIPAA X12 formats as follows:

<u>Current</u>	<u>HIPAA X12</u>
EMC HCFA1500	837 Professional
UB92 Electronic Claim File	837 Institutional
EMC Drug	837 Dental

**What electronic transactions will L&I provide?**

The department will send providers remittance advices either in the current format or in the new HIPAA transaction format, depending on how bills are submitted and received. The department will also continue to mail providers paper remittance advices (per RCW 51.52.050). Electronic formats include:

<u>Current</u>	<u>HIPAA</u>
EMC Remittance Advice	997 Acknowledgement
	277 Unsolicited Claim Status
	835 Remittance Advice

**When will L&I make these transaction changes?**

Our goal is to implement web based transactions by the end of 2002. However, since implementation will be in phases, changes will occur at different times. The department will provide you with more detailed information prior to any changes affecting you.

**What assistance will the department provide?**

The department will continue to provide technical assistance for providers as it currently does. Types of assistance include:

- Notification and specifications of all changes to providers and clearinghouses as they become available
- Scheduled testing for all electronic billing providers and clearinghouses that will use the new L&I website
- Transition support for all current electronic billing providers that are using Wildcat BBS to the new L&I website
- Assistance with initialization and transmission to the L&I website
- Customer support for electronic transmission errors

**Security Issues**

The department is in the process of implementing HIPAA and ISB compliant security standards that will further protect the confidentiality, integrity, and accessibility of [individually identifiable health information](#). While HIPAA mandates new security standards to protect an individual's health information, it permits the appropriate access and use of that information by health care providers, clearinghouses and health plans. These security standards will be an integral part of our billing transactions website.

## Privacy Issues

### **Does HIPAA affect how I submit medical information for workers' compensation claims?**

No. HIPAA does not prevent you from disclosing [protected health information \(PHI\)](#) to workers' compensation programs. HIPAA's authorization requirements for [disclosure](#) of PHI do not apply to claims filed with the department or with self-insurers. The HIPAA Privacy Rule, Section 164.512(l), provides that health care providers:

“...may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.”

Federal Register / Vol. 65, No. 250 / Thursday, December 28, 2000 / Rules and Regulations p. 82818

Further, RCW 51.36.060 “Duties of attending physician – medical information” requires that physicians examining or attending injured workers shall make available to the department or self-insurer medical information they possess or control as it relates to the accepted condition(s) being evaluated or treated. HIPAA does not pre-empt this statutory requirement.

### **Will the department make changes to accommodate the Privacy Rule?**

Although workers' compensation is exempt from compliance with HIPAA, we understand the importance of protecting PHI. As a result, the department has chosen to implement a “Prudent Practices” model for privacy. The aim of this model is to comply with the requirements of the Privacy Rule to the extent possible while balancing the need for privacy protection, risk reduction, administrative practicality, and the requirements of the industrial insurance act. This translates to tightening up our internal policies and procedures and strengthening how we physically handle and store confidential health care information. The department has appointed a Privacy Officer and our employees will receive HIPAA specific privacy training. The department will also evaluate its business contracts for privacy protection language.

### **How will changes related to the Privacy Rule affect me?**

This is still being evaluated since the department has many programs and methods for exchanging health care information with others. Our intention is to accomplish any changes with a minimum impact on providers as well as department staff. Some possible changes include identity authentication procedures for those who access our automated claim information and the addition of privacy protection language to provider agreements. Details about future changes that impact you will be published in future Provider Bulletins.

### **When will L&I make these privacy related changes?**

The federal deadline for providers and other [covered entities](#) to comply with the HIPAA Privacy Rule is April 2003. Most of the privacy related changes that L&I adopts will occur through the remainder of the calendar year. Employee training and other internal work will occur in early 2003.

## Selected HIPAA Definitions

*Excerpted and paraphrased from Federal Register / Vol. 65, No. 250 / Thursday, December 28, 2000 / Rules and Regulations; see the rule itself for complete definition descriptions and details.*

### **Covered entities**

Covered entities are health care providers, payers (health plans & insurers) with 50 or more participants, or clearinghouses that electronically transmit medical information such as billing, claims, enrollment or eligibility information. This also includes self-insured medical plans, public health authorities, skilled nursing facilities, and medical group practices.

### **Individually identifiable health information**

Individually identifiable health information includes demographic information collected from an individual and:

- (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
  - (i) That identifies the individual; or
  - (ii) That provides a reasonable basis to believe the information can be used to identify the individual.

### **Protected health information [PHI]**

With certain exceptions (see § 164.501 *Protected Health Information* (2)(i)(ii)), PHI means individually identifiable health information that is:

- (i) Transmitted by electronic media
- (ii) Maintained in any medium described in the definition of electronic media
- (iii) Transmitted or maintained in any other form or medium

### **Use**

Use means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

### **Disclosure**

Disclosure means the release, transfer, provision of access to, or divulging in any other manner, information outside the entity holding the information.

### **Minimum necessary uses and disclosures**

Minimum necessary uses and disclosures means making all reasonable efforts not to use or disclose more than the minimum amount of protected health information necessary to accomplish the intended purpose of the use or disclosure.

**Treatment**

Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

**Payment** [abbreviated – refer to actual rule for complete definition]

Payment means activities undertaken by a covered health care provider or health plan to obtain or provide reimbursement for the provisions of health care.

**Health Care Operations** [abbreviated and paraphrased – see actual rule for complete definition.]

Health care operations refer to internal business operations of health care arrangements, e.g. quality assurance, underwriting, business planning, management, and customer service activities.

→ These three terms, “Treatment, Payment, and Health Care Operations” are often used together in the rule and may be described simply as “TPO.” It is a key concept when referring to consents and authorizations.

## Helpful HIPAA Information Links

There are many sources of HIPAA information, especially on the Internet. The department does not endorse or sponsor any particular resource over another, but the following links provide useful information and are included here for your convenience.

<http://www.wedi.org/public/articles/index.cfm?cat=9>

<http://www.aspe.hhs.gov/admsimp/Index.htm>

<http://www.hcfa.gov/medicaid/hipaa/admsim/>

<http://www.hhs.gov/ocr/hipaa/>

<http://www.hipaadvisory.com/>

<http://pweb.netcom.com/~ottx4/HIPAA.htm>

<http://www.hipaalearn.com/event.asp?table=d1>

For questions related to billing transactions and security, contact Pat Harris, (360) 902-5384

For questions related to privacy, contact Simone Stilson, (360) 902-6319